

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DERRICK CAMPBELL, *for himself and on behalf of
all others similarly situated,*

Plaintiff,

v.

EMPIRE MERCHANTS, LLC,

Defendant.

16 CV 5643

**DECLARATION OF
DERRICK CAMPBELL**

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Pursuant to 28 U.S.C. § 1746, I, Derrick Campbell, under penalty of perjury, declare and state as follows:

1. My name is Derrick Campbell. I am the Plaintiff in the above-referenced action.
2. I am over the age of 18, of sound mind, and capable of making this declaration.
3. I was employed by Defendant Empire Merchants LLC (“Defendant” or “Empire”) from March 30, 2016, to June 22, 2016.
4. Empire hired me as a “shape-up” employee on March 30, 2016.
5. As a shape-up employee, I was responsible for various cleaning and landscaping tasks in and around Empire’s warehouse location (the “Warehouse”)—such as mowing grass, trimming bushes, and sweeping—and working with Empire’s delivery drivers to unload deliveries to Empire’s customers from Empire’s delivery trucks.
6. I received an hourly wage of \$13.00 for work done in the Warehouse and an hourly wage of \$14.00 for work done on Empire’s delivery trucks.
7. I was compensated at one-and-a-half times my regular hourly rate for all hours worked in excess of eight in a single work day: \$19.50 per hour for work done in the Warehouse, and \$21.00 per hour for work done on Empire’s delivery trucks.

8. I did not have regular or fixed work hours at Empire.
9. Instead, Empire instructed me to arrive at the Warehouse between 5:30 a.m. and 6:00 a.m. on each day I was scheduled to work.
10. When I arrived at the Warehouse, Empire directed me to check in and wait to be assigned work.
11. Empire told me that I was not allowed to leave the Warehouse or use the waiting time for my own purposes after I checked in.
12. During my employment with Empire, there were three morning shifts for shape-up employees, beginning at 7:00 a.m., 8:00 a.m., and 9:00 a.m.
13. If I was not assigned work by the beginning of the 9:00 a.m. shift, Empire would instruct me to go home without pay.
14. I spent between 1 and 3.5 hours engaged to wait each day, or between 4 hours and 17.5 hours engaged to wait each week, during my employment at Empire.
15. Empire never compensated me whatsoever for my time spent waiting, much less at the overtime premium rate.
16. Additionally, while employed at Empire, I never saw any post or notice explaining the minimum wage and overtime pay rights provided by the Fair Labor Standards Act or New York Labor Law.
17. In the statutory period (October 10, 2013, to the filing of the Complaint), I believe there were approximately 50 shape-up employees employed by Empire.
18. Defendant failed to pay me and other shape-up employees wages for time spent engaged to wait.
19. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
February 3, 2017


Derrick Campbell